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4 Los Angeles, California 90017-2427  
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5 Facsimile: (323) 651-2577

6 Attorneys for party in interest ZIONS  
BANCORPORATION, N.A. dba  
7 California Bank & Trust

8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 In re

13 Evander Frank Kane,

14 Debtor.  
15

Case No. 21-50028

Chapter 7

The Hon. Stephen L. Johnson

16 **DECLARATION OF GERRICK M.**  
17 **WARRINGTON IN SUPPORT OF ZIONS**  
18 **BANK'S MOTION TO CONVERT THE**  
19 **CASE TO CHAPTER 11 AND APPOINT A**  
20 **CHAPTER 11 TRUSTEE**

Date: [To be set]

Time: [To be set]

Place: Courtroom 9

San Jose, California

(hearing via video or phone)

1 I, Gerrick M. Warrington, declare as follows:

2 1. I am a lawyer licensed to practice before all of the courts of the State of California  
3 and the bar of this Court. I am an associate attorney employed by Frandzel Robins Bloom &  
4 Csato, L.C., counsel of record for Zions Bancorporation, N.A., dba California Bank & Trust  
5 (“Bank”) herein. I have personal knowledge of the matters in this declaration and I could and  
6 would testify competently thereto if called upon to do so in this matter.

7 2. On February 3, 2021, at 10:30 a.m., I took part remotely in the initial session of the  
8 341(a) examination of Evander Kane (“Kane”). During that examination, I heard Kane be asked,  
9 and Kane answer, providing the following information and answers to the questions posed to him  
10 during the examination.

11 3. Kane said that he originally borrowed between \$600,000 to \$700,000 from South  
12 River Capital, LLC, to “pay casino debt,” and that the \$1 million debt listed on Schedule F arises  
13 from a judgment.

14 4. Kane testified that the \$1.5 million in gambling losses listed on his Statement of  
15 Financial Affairs was incurred at the Cosmopolitan and MGM casinos.

16 5. His \$750,000 debt to Lone Shark Holdings was incurred just before the petition  
17 date, in December 2020. He used that to fund the “tax conservation investment,” which appears to  
18 be related to his scheduled membership interests in Ascher Capital II and III (on Schedule B, para.  
19 19) and his purchased interests in these LLCs “in connection with conservation tax easement  
20 acquisition.”

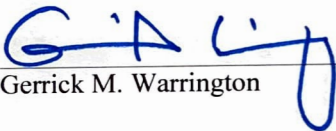
21 6. Kane bought his Richland Avenue, San Jose, residence on August 21, 2020. Kane  
22 took title originally taken in the name of Lions Property LLC, but then transferred to him prior to  
23 filing bankruptcy. I caused the initial recorded grant deed to Lions Property, and the subsequent  
24 Lions recorded quitclaim deed, signed by Kane as its manager, to Kane and his wife individually,  
25 to be located and copies made. True and correct copies are attached hereto as Exhibits 2 and 3. I  
26 request that the Court take judicial notice of each such deed in the official records of Santa Clara  
27 County. Before buying Richland Avenue, Kane rented a residence. Lions Property is no longer  
28 operating, as of mid-January 2021, and has no assets.

1           7. Kane said that he played in a National Hockey League game for the San Jose  
2 Sharks on the Thursday before the exam, and intended to play again on the Friday following the  
3 exam. Kane stated that he did not plan on "opting out" of his NHL contract this season and plans  
4 to play this season.

5           8. Kane admitted that his wife does not work but they nonetheless pay \$12,000 per  
6 month for both a day and a night nurse to care for their single infant child.

7           9. I have ordered for the Bank a transcript of the entire 341(a) examination, but have  
8 not received it yet.

9           I declare under penalty of perjury under the laws of the United States of America and of  
10 the State of California that the foregoing is true and correct and that this declaration was executed  
11 on this 25 day of February, 2021, at Los Angeles, California

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14 \_\_\_\_\_  
15 Gerrick M. Warrington  
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# EXHIBIT 2

**24583471**

**Regina Alcomendras**

Santa Clara County - Clerk-Recorder  
08/21/2020 09:50 AM

Titles: 1 Pages: 4

Fees: \$22759.00

Tax: \$13332.00

Total: \$36091.00

**RECORDING REQUESTED BY:**  
Chicago Title Company

**When Recorded Mail Document  
and Tax Statement To:**  
2301 Richland Avenue, LLC  
2301 Richland Avenue  
San Jose, CA 95125

**Escrow Order No.:** FWPS-3021200049


**APN/Parcel ID(s):** 439-33-007

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exempt from fee per GC 27388.1 (a) (2); recorded in connection with a transfer subject to the imposition of documentary transfer tax.

**GRANT DEED**

**The undersigned grantor(s) declare(s)**

  
David M. Warda

☐ This transfer is exempt from the documentary transfer tax.

**San Jose Transfer Tax is**

☒ **The documentary transfer tax is \$3,333.00 and City Tax is \$9,999.00 and is computed on:**

**\$22,725.00**

☒ the full value of the interest or property conveyed.

☐ the full value less the liens or encumbrances remaining thereon at the time of sale.

The property is located in ☒ the **City of San Jose**.

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DWC Development LLC, a California limited liability company**

**hereby GRANT(S) to** Lions Properties, LLC, a Florida limited liability company

**the following described real property in the City of San Jose, County of Santa Clara, State of California:**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

**MAIL TAX STATEMENTS AS DIRECTED ABOVE**

# GRANT DEED

(continued)

APN/Parcel ID(s): 439-33-007

Dated: March 8, 2020

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

DWC Development LLC, a California limited liability company

BY: [Signature]  
David M. Warda, General Manager

BY: [Signature]  
Willie B. Hales, General Manager

BY: [Signature]  
Craig A. Rogers, General Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Clara

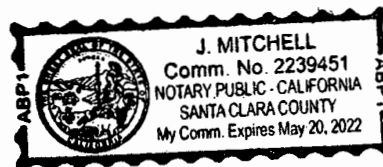
On March 10, 2020 before me, J. Mitchell, Notary Public,  
(here insert name and title of the officer)

personally appeared \*\*\*DAVID M. WARDA and WILLIE B. HALES and CRAIG A. ROGERS\*\*\*, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]  
Signature



# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Clara

On March 9, 2020 before me, J. Mitchell, Notary Public,  
(Here insert name and title of the officer)

personally appeared \*\*\*CRAIG A. ROGERS\*\*\*,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

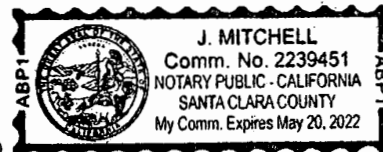
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*Mitchell*

Signature of Notary Public

(Notary Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

(Additional information)

### CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)  
☐ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document



**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 439-33-007**

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THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF RICHLAND AVENUE 50 FEET WIDE, DISTANT THEREON SOUTH 29° EAST 414.75 FEET FROM AN IRON BOLT SET AT THE INTERSECTION OF SAID CENTER LINE PRODUCED NORTHWESTERLY WITH THE CENTER LINE OF CURTNER AVENUE; THENCE ALONG THE CENTER LINE OF RICHLAND AVENUE, SOUTH 29° EAST 55.17 FEET; THENCE AT RIGHT ANGLES AND RUNNING SOUTH 61° WEST 209.25 FEET TO A 3/4 INCH PIPE IN THE SOUTHWESTERLY LINE OF THAT CERTAIN 9.96 ACRE TRACT OF LAND CONVEYED BY F. A. HEITZMAN TO Y. ARCHIBALD BY DEED DATED JANUARY 2, 1936 AND RECORDED JANUARY 3, 1936 IN BOOK 755 OF OFFICIAL RECORDS, PAGE 286; THENCE ALONG SAID SOUTHWESTERLY LINE N. 28° 57' WEST 55.17 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE AND RUNNING NORTH 61° EAST 209.21 FEET TO THE POINT OF BEGINNING, AND BEING A PART OF LOTS 10 AND 11, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE CURTNER TRACT, BEING PORTION OF THE SAN JUAN BAUTISTA RANCHO", FILED FOR RECORD DECEMBER 18, 1830 IN BOOK "A" OF MAPS, PAGE 34, SANTA CLARA COUNTY RECORDS.



# EXHIBIT 3

RECORDING REQUESTED BY:

Stephen D. Finestone

APN No.: 439-33-007

WHEN RECORDED MAIL TO

Lions Properties, LLC  
2301 Richland Ave.

San Jose, CA 95125

**24780733**

Regina Alcomendras  
Santa Clara County - Clerk-Recorder

01/08/2021 03:16 PM

Titles: 1 Pages: 3

Fees: \$23432.39  
Taxes: \$13736.80  
Total: \$37169.19



SPACE ABOVE THIS LINE FOR RECORDERS USE

## Quitclaim Deed

The undersigned grantor(s) declare(s):

Transfer is exempt from tax based on Revenue and Taxation Section 11925(d). Transferred by LLC owned 50-50 by Grantees.

Documentary transfer tax is \$3,434.20

( ) computed on full value of property conveyed, or

( ) computed on full value less value of liens and encumbrances remaining at time of sale.

( ) Unincorporated area: ( X ) City of San Jose: Conveyance fee: \$10,302.60, Measure E \$23,411.39

( X ) Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
Lions Properties, LLC, a Florida limited liability company

hereby REMISE(S), RELEASE(S) AND FOREVER QUITCLAIM(S) to

Evander F. Kane and Deanna Sara Jean Kane as husband and wife as community property with right of survivorship  
that property in City of San Jose, County of Santa Clara, State of California

Date 2301 January 06, 2021

2310 Richland Ave., San Jose, CA 95125

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

  
Lions Properties, LLC

By Evander F. Kane, its Manager

Mail Tax Statements to Evander Kane, 2301 Richland Ave, San Jose, CA 95125

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Page 1 of 2

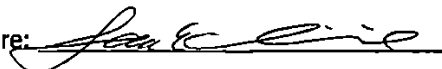
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

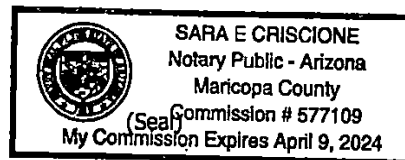
State of Arizona  
County of Maricopa

On January 7, 2021 before me, Sara E. Criscione a Notary Public,  
personally appeared Evander F. Kane,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that  
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and  
correct.

WITNESS my hand and official seal.

Signature:   
Name: Sara E. Criscione  
(Typed or Printed)



MAIL TAX STATEMENTS AS DIRECTED ABOVE

Page 2 of 2

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Legal Description

**For APN/Parcel ID(s): 439-33-007**

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